IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2123 OF 2004

Amit Kumar S/o R.B.B. Roy

.....Petitioner

VERSUS

Union of India & Ors. .....

Respondents

Mr. G.C. Singh for the petitioner

Mrs. C.S. Jain, Upper Division Clerk of respondent No. 2, present.

CORAM: DALVEER BHANDARI, C.J., &
DR. D.Y. CHANDRACHUD, J.

DATE: AUGUST 6, 2004.

P.C.:-

1. The petitioner is aggrieved by the Order dated 17th June, 2004 passed by the Central Administrative Tribunal (CAT), Bombay

Bench, Mumbai.

2. The brief facts, which are necessary to dispose of the present Writ Petition, are recapitulated as under:-

(a) Respondent No.1 - Union of India issued advertisement, inviting applications for two posts of Store Keeper. One post was unreserved, and the other post was reserved for Other Backward Classes (OBC). The educational qualification required for the post is matriculation or equivalent. The petitioner, Amit Kumar, applied for the said post in the Open Category. Respondent No.9, Ramesh Kumar Yadav, applied in the Category of OBC.

(b) Both petitioner, Amit Kumar, and Ramesh Kumar Yadav were selected, along with Ravi Prakash and Namita Khaire. Petitioner, Amit Kumar, was shown as the selected candidate for the said post from General Category and respondent No. 9, Ramesh

Kumar Yadav, for the said post from OBC.

(c) The case of the petitioner is that he was found suitable and selected to the said post. When the petitioner, Amit Kumar, did not receive the letter of appointment, he filed the application before the CAT, Mumbai. The CAT held that Ramesh Kumar Yadav, who topped the list, is entitled to the said post of Store Keeper under General Category. The contention of the petitioner is that Ramesh Kumar Yadav is entitled to be considered for that post only under the OBC Category. The CAT, while relying on the judgment of the Supreme Court in *R.K. Sabharwal & Ors. v. State of Punjab & Ors., reported at* (1995) 2 SCC 745, came to the conclusion that Ramesh Kumar Yadav has to be considered in General Category. The petitioner, aggrieved by the judgment of the CAT, preferred this Writ Petition.

3. Admittedly, Ramesh Kumar Yadav was placed at No.1 in the Merit

List. According to the judgment of the Apex Court in *R.K. Sabharwal* (supra), Ramesh Kumar Yadav was rightly considered in General Category. The relevant portion of the said judgment is as under:-

> "When a percentage of reservation is fixed in respect of a particular cadre and the roster indicates the reserve points, it has to be taken that the posts shown at the reserve points are to be filled from amongst the members of reserve categories and the candidates belonging to the general category are not entitled to be considered for the reserved posts. On the other hand the reserve category candidates can compete for the non-reserve posts and in the event of their appointment to the said posts their number cannot be added and taken into consideration for working out the percentage of reservation."

4. The impugned judgment of the CAT is in consonance with the law declared by Their Lordships of the Supreme Court. We find no infirmity in the impugned judgment. No interference is called for.

5. The Writ Petition, being devoid of any merit, is accordingly

dismissed.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.